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C O N F I D E N T I A L SECTION 01 OF 02 CARACAS 000322

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SUBJECT: CHAVEZ CONCENTRATES MORE POWER AT THE EXPENSE OF
OPPOSITION STATE AND LOCAL GOVERNMENTS

CARACAS 00000322 001.2 OF 002

Classified By: A/POLITICAL COUNSELOR DANIEL LAWTON,
FOR REASONS 1.4 (B) AND (D)

11. (C) Summary: The Chavista-dominated National Assembly (AN) approved an amended Organic Law of Decentralization March 12 which enables President Chavez to take control over state infrastructure, goods, and services that are "in the general public's interest." Chavez ordered the military on March 15 to take over key ports in three opposition-controlled states and threatened to send their governors to jail if they interfered. The AN is also poised to pass a law creating a new Vice President for Caracas, which would marginalize the opposition mayor of Caracas. Although these steps run contrary to the decentralization articles in the 1999 Constitution, Venezuela's highly politicized judiciary is not likely to provide any relief. With virtually no institutional checks on his power, Chavez is actively undermining the authority and cutting the revenue streams of the opposition state and local governments elected in November 2008. End Summary.

AN DISMANTLES STATES' RIGHTS

12. (SBU) The National Assembly (AN) approved March 12 a partial reform of the Organic Law of Decentralization which enables Chavez to take control over state infrastructure, goods, and services that are considered "of general public interest." Podemos party leader Ismael Garcia March 13 characterized the legislation as a "blow to the Constitution." Article 164 of the 1999 Constitution enumerates states' exclusive rights, including specifically the administration of its goods, resources, public services, and public infrastructure. United Socialist Party of Venezuela (PSUV) Deputy Francisco Ameliach explained March 12 that the legislation was initiated after a ruling by the Supreme Court's (TSJ's) Constitutional Chamber that called on the AN to incorporate into legislation the executive's right to "administrative intervention."

13. (SBU) In his weekly "Alo, Presidente" TV show March 15 in Sucre State, Chavez called on his military to take over key ports within the week in opposition-governed Carabobo, Nueva Esparta, and Zulia States to defend them from "narcotrafficking mafias." Responding to Carabobo Governor Henrique Salas Feo's pledge to protect Puerto Cabello from take-over, Chavez said, "well, go look for an army, compadre" and threatened that both Salas Feo and Zulia Governor Pablo Perez would go to jail because "no authority here, mayor or governor or anyone, can oppose the Constitution and the law

of the Republic." He added, "if they act like clowns (ponerse comicos), capture them." Local media reported March 16 that members of Venezuela's armed forces were entering the three aforementioned ports (Septel).

2007 REFORM PACKAGE RETURNS

14. (C) Podemos Deputy Juan Jose Molina told PolCouns March 13 that Chavez intends to use the rubber stamp AN to systematically dismantle state institutions and cut off resources to all opposition mayors and governors. He noted that the decentralization law is intended to undercut opposition Governor of Carabobo State Henrique Salas Feo, specifically to seize control over the state's revenue-producing Puerto Cabello port. Molina said the AN would this week pass the draft district law to create a Vice President of Caracas, appointed by Chavez, and may in the future create similar executive-named vice presidencies in each State -- effectively, undermining all gubernatorial authority. He also anticipated that the draft Law of International Cooperation, which would allow the central government to regulate NGOs and their financing, would be proposed and passed within a few days -- presumably to prevent international outcry from interfering with the process. Molina said the Foreign Ministry is redrafting the law, but has not yet passed it to the legislature.

15. (C) Constitutional lawyer Jose Vicente Haro told Poloff March 16 that Chavez is systematically restructuring Venezuela from a federalist system to a more centralized form of government, with all state resources and decisionmaking tied directly to Chavez -- bringing to fruition the "National Project Simon Bolivar" Chavez elucidated in 2006. Haro

CARACAS 00000322 002.2 OF 002

opined that judicial relief should not be expected. He argued that since 2005, the rulings by the Constitutional Chamber of the Supreme Court (TSJ) have created a clear legal precedent to enable Chavez and the AN to commit blatant constitutional violations. The TSJ uses outlandish legal arguments to decide cases in favor of the government, no matter their compliance (or lack thereof) with Venezuelan law, according to Haro. He pointed out that the TSJ has announced its pursuit of a "revolutionary" judicial course, lamenting that "there no is longer rule of law in Venezuela."

CHAVISTAS HINDER BASIC GOVERNANCE

16. (SBU) In recent weeks, Chavistas have attacked opposition efforts to govern using bizzare legal arguments and physical harassment, undermining policies that would benefit Venezuelans across the board. The Chavista-dominated Court of Civil and Administrative Contention recently declared two initiatives by opposition leaders intended to ease traffic congestion to be illegal. Miranda State Governor Henrique Capriles Radonski had created a bus-only lane running against traffic along the heavily congested highway from the western suburbs into Caracas, saving bus commuters up to 50 minutes of travel time. The courts ruled that his plan violated a "right of free transit" established in Article 50 of the Constitution because the bus lane occupied part of the highway with less traffic. Opposition Caracas Mayor Antonio Ledezma's "pico y placa" plan, which asked drivers to voluntarily give up driving one day per week, was thrown out by the courts on the grounds that it violated Venezuelans' right to "freedom of conscience."

17. (SBU) The first meeting of the Caracas Metropolitan Council for the Planning of Public Works was disrupted March 11 by Chavez supporters. Their physical attacks on opposition attendees caused property damage and left several

people wounded. Caracas Mayor Antonio Ledezma had planned to present several projects to the council, including the donation of police patrol cars to Sucre and El Hatillo boroughs of Caracas, when the pro-government attendees rioted. Caracas councilman Antonio Ecarri called the attacks "definitely following the policy line of (Chavez's party) the PSUV to sabotage the administration of Mayor Ledezma." He added that the community councils from Sucre -- most of which are dominated by Chavistas -- had come to the meeting to ask for the approval of the initiative. Former Caracas municipality contract workers who were hired by former PSUV Mayor Juan Barreto, and whose contracts Ledezma allowed to expire on January 1, continue to occupy certain municipal buildings, including City Hall, with the public blessing of the central government.

COMMENT

18. (C) With virtually no institutional check left on his power, Chavez is deepening his "Bolivarian revolution" by undercutting state authority and reducing revenue streams to three of the opposition's five opposition state governments. Chavez now has a new "legal" instrument to marginalize any of the governors and mayors elected in November 2008 by declaring that he is acting "in the public's interest." The Venezuelan president is betting -- probably correctly -- that despite the fact that he is denying opposition governors or mayors power and resources, their ineffectiveness is more likely to be blamed on them, not Chavez. At a minimum, these newly elected officials now have far less opportunity to build a democratic alternative to Chavismo. Moreover, Chavez is increasingly demonstrating that he intends to abide by democratic rules only when he deems it politically expedient.
End Comment.

CAULFIELD